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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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In re C.R. et al., Persons Coming Under  
the Juvenile Court Law.

SACRAMENTO COUNTY DEPARTMENT OF HEALTH  
AND HUMAN SERVICES,

Plaintiff and Respondent,

v.

E.D.,

Defendant and Appellant.

C063100

(Super.Ct.Nos.  
JD224544, JD224545)

E.D. (father) appeals from the orders terminating his parental rights regarding his twin children (the twins). (Welf. Inst. Code, § 366.26; further section references are to the this code.) He contends the Department of Health and Human Services (DHHS) failed to provide the juvenile court with a preliminary assessment of the twins' grandparents, who were identified as prospective adoptive parents and with whom the minors had been placed; thus, there was insufficient evidence to support the

court's finding that the twins were adoptable, and the court failed to properly exercise its discretion by proceeding to select adoption as the permanent plan. We shall affirm the orders.

#### FACTS AND PROCEDURAL HISTORY

In June 2006, the then eight-month-old twins and two older half-siblings were taken into protective custody due to their mother's continuing drug abuse problem. Father and mother were not married and had not lived together; and father had "missed the first six months of his children's lives." The twins and their half-siblings were placed in the home of their maternal grandparents, who had a relationship with the twins since their birth and who had often assisted mother in caring for them. Early on, the maternal grandparents expressed that they were willing to adopt the children and had been trying to gain legal guardianship of them prior to their being placed in protective custody. A criminal history check, a Child Protective Services (CPS) history check, and a home inspection by DHHS found that the maternal grandparents' home met safety and suitability standards and was appropriate to meet the children's needs.

Father sought custody of the twins, and they were placed with him on July 17, 2006. Because father had prior drug convictions and recent positive drug tests, the twins were declared dependents of the court, and their placement with father was under the supervision of DHHS. Father was ordered to participate in parenting classes and substance abuse counseling, and he agreed

to participate in dependency drug court. The twins had weekend visits with their maternal grandparents twice a month.

During the next two years, the twins remained in father's care. However, his compliance with his case plan was sporadic. Three corrective action plans were implemented in an effort to secure his compliance on the issues of parenting classes, substance abuse treatment, and drug testing. In 2008, father had numerous positive drug tests, failed to disclose the positive drug tests in his "Alcohol and Other Drug Assessment," had many unexcused absences from drug treatment, missed appointments for counseling, and falsified NA/AA meeting attendance slips.

Father's failure to comply with his case plan and his ongoing substance abuse problems resulted in removal of the twins from his home. On September 2, 2008, they were again placed in the home of their maternal grandparents, who had again been subject to a criminal history check, a CPS history check, and a home inspection. The half-siblings were under guardianship with the maternal grandparents.

As of September 25, 2008, the twins were adjusting well. The maternal grandparents, who had been actively involved with the twins throughout their lives and resided close to the school they attended, again expressed interest in adopting the twins if father failed to reunify with them.

Father did not contact social services for an interview about the allegations which had led to detention of the twins and their placement with the maternal grandparents. However, father was

present at the jurisdiction and disposition hearing on October 20, 2008.

The juvenile court found that father had failed to utilize and engage in court-ordered services to treat his substance abuse issues, thereby putting the twins at risk. The court continued their placement with the maternal grandparents.

At the six-month status report, the twins were comfortable, happy, and well adjusted in their placement with the maternal grandparents. Both were in good health, meeting developmental milestones and attending preschool with no special education needs and no apparent need for counseling. The maternal grandmother again expressed interest in adopting the twins.

On May 4, 2009, the juvenile court found the educational, physical, mental health, and developmental needs of the twins were being met in their placement with the maternal grandparents.

Father continued to have inconsistent compliance with his case plan. He did not show up for counseling appointments, was inconsistent in participating in his drug treatment, and was "an irresponsible parent to his children." He was released from his drug treatment program for non-compliance and failure to drug test.

On May 4, 2009, father's reunification services were terminated, and the matter was scheduled for a selection and implementation hearing on August 31, 2009.

The report prepared for the hearing stated that father had arranged weekly visitation, but had not visited the twins since January 2009. Father also had not contacted the social worker.

Mother regularly had visits with the twins, supervised by the maternal grandparents. Both twins were physically healthy and developmentally and academically on target. They attended pre-school and had no academic, social, emotional, behavioral, or intellectual problems. They were "typical preschoolers" who were able to follow rules and directions.

Having cared for the twins "off and on for their entire lives," the maternal grandparents desired to adopt them. The legal rights and responsibilities of adoptive parents were explained to them, and they indicated their understanding of those responsibilities. Thus, the maternal grandparents were referred for an adoption home study.

The twins were declared "generally adoptable children due to their young age, good health, appropriate developmental status, and lack of behavior problems." Because of their young age, they were not asked about adoption; but they expressed a desire to continue living with their grandparents and older half-siblings.

Father did not appear at the selection and implementation hearing. His counsel "object[ed] to [his] client's parental rights being terminated at this point." There was no specific objection as to the adequacy of the adoption assessment. After considering the record, the court found it likely the twins would be adopted; thus, the court terminated father's parental rights.

#### DISCUSSION

"The issue of adoptability posed in a section 366.26 hearing focuses on the minor, e.g., whether the minor's age, physical condition, and emotional state make it difficult to find a person

willing to adopt the minor.” (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649, italics omitted.) “[T]he fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor’s age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent’s willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent or by some other family.” (*Id.* at pp. 1649-1650, italics omitted.)

Here, as we will explain, the twins’ age, physical condition, mental state, and other matters supported a finding that they were adoptable. Moreover, they had prospective adoptive parents (their maternal grandparents) who wanted to adopt them.

Nevertheless, father contends “substantial evidence does not support the court’s finding by clear and convincing evidence the [twins] are likely to be adopted within a reasonable period of time because no preliminary assessment of [their] grandparents was provided to the court as statutorily required.” Father argues the selection and implementation report was deficient because it “omitted any preliminary assessment of the [maternal grandparents] as required in section 366.21, subd[ivision] (i)(1)(D).”

Having failed to raise this issue in the juvenile court, father has forfeited his challenge to the assessment report. (*In re Urayna L.* (1999) 75 Cal.App.4th 883, 886.)

He contends, however, that without the information required by section 366.21, subdivision (i)(1)(D), the evidence is not

sufficient to support the juvenile court's finding that the twins were adoptable. (*In re Gregory A.* (2005) 126 Cal.App.4th 1554, 1560 [sufficiency of evidence contention not forfeited].)

Subdivision (i)(1)(D) of section 366.21, requires "[a] preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship."

Our review of the record reveals that the information identified by section 366.21, subdivision (i)(1)(D) is contained within the record as a whole. The twins lived with the maternal grandparents on and off for large portions of their lives. The maternal grandparents had been meeting the twins' needs during that time and had long expressed their interest in adopting the twins. The maternal grandparents were repeatedly approved as a relative placement for the twins, after assessments that included criminal history checks, CPS history checks, and home inspections. The assessments also evaluated their marital status, employment, income, health and mental health, child care arrangements, disciplinary techniques and expectations, lack of alcohol or drug issues, and absence of domestic violence. And the twins were young, happy, and well adjusted in the home of their maternal grandparents. They were physically healthy, meeting developmental milestones, and were

academically on target. They had no emotional, behavioral, or intellectual problems.

Simply stated, there was nothing about the twins that in any way suggests it would be difficult to find them an adoptive home. (*In re Gregory A.*, *supra*, 126 Cal.App.4th at p. 1562 ["A child's young age, good physical and emotional health, intellectual growth and ability to develop interpersonal relationships are all attributes indicating adoptability"].)

In sum, the information required by subdivision (i)(1)(D) of section 366.21 was provided to the juvenile court, and substantial evidence supports the court's finding that the twins were adoptable. Thus, the court did not abuse its discretion in selecting adoption as the permanent plan for them.

#### DISPOSITION

The orders of the juvenile court are affirmed.

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SCOTLAND, P. J.

We concur:

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SIMS, J.

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RAYE, J.